

**MINUTES OF A WORKSHOP/MEETING OF THE GOVERNING BOARD  
OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
HELD AT DISTRICT HEADQUARTERS, 3301 GUN CLUB ROAD  
WEST PALM BEACH, FL  
WEDNESDAY, DECEMBER 8, 1999  
9:00 A.M.**

The following **Board Members** were present

Michael Collins  
Vera Carter  
Michael Minton  
Mitchell Berger  
Nicolas Gutierrez  
Gerardo Fernandez  
Trudi Williams  
Patrick Gleason  
Harkley Thornton

**CALL TO ORDER**

**1. Board questions for staff about any items on Thursday's Regular Meeting Agenda or Regulatory Consent Agenda.**

Mr. Gleason questioned items 45, 46, 16, 63, and 64.

Mr. Williams questioned items 13, 19, 30, 45, and 63.

Chairman Collins questioned items 46 and 63.

Mr. Berger questioned items 63 and 64.

Mr. Minton questioned item 64.

Mr. Thornton questioned item 37, 38, 39, 54, 63, and 66.

## **2. Everglades Construction Project Update**

Dr. Jennifer Jorge, Deputy Director, Everglades Construction Project, presented information on this item. A copy of the material used in her presentation is included in the official record of this meeting.

Mr. Fernandez asked for a report on the success of the ECP Minority and Women Business Enterprise program contracts, and how to apply the lessons learned from those successes to others in the program. He asked that Board Members be copied on the report.

Ms. Gabrielle Benigni, representing A.E.I., a subcontractor for the ECP project STA 1 Inflow Works, commented on problems involving the project design and cash flow limitations. She asked that the Board help resolve the problem.

Mr. David Pepper, representing Harry Pepper & Associates, the contractor for the STA 1 Inflow Works project, said he has tried to assist A.E.I. as a subcontractor with funding and equipment. He also asked that the Board resolve the situation.

. Ms. Williams questioned the need for Board involvement in this issue. Mr. Fernandez said this issue should be dealt with by the contractor and subcontractor.

Mr. Finch said there is no issue before the Board. He noted that the matter is being raised as part of public comment before the Board.

Mr. Minton said this issue should be brought before the Board. Mr. John Fumero said staff is working to resolve the problem and will brief Board Members individually. He said staff does not feel that any inappropriate actions have been taken by the District.

Chairman Collins said he is in sympathy with the subcontractor, but is concerned that action by the Board could set a precedent .

Mr. Gleason suggested that staff meet with representatives from Harry Pepper & Associates and A.E.I. to try to resolve this situation.

## **3. Discussion of the Governor's One Florida Initiative**

Mr. Jock Merriam, Deputy Executive Director, Corporate Resources, presented an overview of this issue. He said staff has responded to a letter from the Office of the Governor on this issue, and has expressed the District's support for the initiative.

Ms. Carolyn Williams, Director, Office of Supplier Diversity and Outreach, said staff is working closely with the Office of the Governor and will present recommendations to the Board in the future on this issue. She said staff recommends that the Board express support for staff's efforts to support the initiative by committing to maintaining the FY99 Budget program structure, and seeking equity in the District's contracting plan.

Chairman Collins said staff should seek more participation by the minority communities in the District's contracting process, and should develop ways to gain input from those communities as to whether the program is working.

Ms. Williams said staff will take all steps necessary to meet the goals of the Governor's initiative.

Mr. Fernandez said the District's Service Centers should have specific goals and objectives in place to identify and enlist those minority community members who can assist the District with its outreach program. Ms. Williams said she is meeting with Office of Communication staff and Service Center staff to coordinate this effort.

**Motion by Mr. Minton to support the Governor's One Florida Initiative as recommended by staff. Motion approved.**

#### **4A. Discussion of TMDLs**

Dr. Alan Steinman, Director, Okeechobee Division, presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

Mr. William Malone, Deputy Director, Water Resources Management, noted an item on the December 9, 1999 regular meeting agenda concerning Total Maximum Daily Loads (TMDL's) for Lake Okeechobee. He said this presentation is background for that item.

Mr. Richard Harvey, U.S Environmental Protection Agency, said federal officials will take the state's actions into consideration, but intends to establish TMDL's for Lake Okeechobee.

Mr. Wayne Nelson, Fishermen Against Destruction of the Environment, requested that the Board broaden this discussion and devote a full day's workshop to addressing the overall health of the lake. Mr. Nelson said the health of the lake is deteriorating and has been neglected for the past several years. He said the Board should act to protect the lake.

Mr. Larry Harris, Friends of Lake Okeechobee, said his organization recommends using 40 parts per billion (ppb) as basic criteria for establishment of the TMDL.

Dr. Paul Gray, Audubon Lake Okeechobee Sanctuaries, commented on the Lake Okeechobee action plan. He reported that phosphorus concentrations in the lake have doubled since the early 1970's. Dr. Gray expressed concern about the assumption that phosphorus discharged into the lake will be naturally assimilated. He said this does not occur and urged that nutrient loading o the lake be stopped.

Mr. Phil Parsons, Florida Sugar Cane League, urged the Board to support the establishment of TMDL's that provide flexibility for cost effective solutions.

#### **Board comment**

Mr. Berger said water quality issues should be state issues. He said it is important to build consensus behind a project to fund a reservoir above the lake using state funds. He congratulated Mr. James Harvey, former Interim Executive Director, for putting the District on this path.

Chairman Collins said a funding proposal is being prepared.

Mr. Minton expressed concern that estuaries are being overlooked in this process. He said there if water quantity issues are addressed, the result will be an improvement in water quality.

Mr. Richard Harvey, U.S. EPA, said the potential basis for the TMDL is based on work done by District staff. He said flexibility will be found in how the program is implemented.

#### **~~4. Overview of the District's Enforcement & Compliance Program~~**

This item was deleted.

#### **5. Briefing on ASR Activities at the District**

Mr. Lou Devillon, Sr. Engineer, Water Supply Planning, Permitting & Development, Water Resources Management, presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

Mr. Pete Kwiatkowski, Sr. Supervising Hydrogeologist, Water Supply Planning, Permitting & Development, Water Resources Management, presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

Mr. Tom Teets , Senior Supervising Planner, Water Resource Program Accountability, presented information on the District's Project Cooperative Agreement (PCA) with the U.S. Army Corps of Engineers (USACE).

Mr. John Arthur Marshall, Arthur R. Marshall Foundation, requested that the Board consider a system approach to ecosystem decision making. He said the Lake Okeechobee crisis is a driving requirement for development of a flowway project, rather than Aquifer Storage and Recovery.

Chairman Collins noted that the Human Resources Committee is scheduled to begin its meeting at 1:00 p.m. He adjourned the workshop until 1:45 p.m.

The Human Resources Committee having met and adjourned, Chairman Collins reconvened the Workshop.

## **6. Television Tower Lease on District Land**

Mr. Thomas F. McCracken, Director, Land Management, Real Estate, Engineering and Construction, reviewed issues involving the Tower lease proposal and Tower construction issues. A copy of the material used in his presentation is included in the official record of this meeting.

Mr. McCracken noted that the proposed agreement with WXEL for lease of the Tower would include a District-dedicated channel.

Mr. Gleason said the dedicated channel could be extremely important in the District's environmental education and outreach efforts. He said the agreement would allow access to the Palm Beach County school system and local colleges.

Mr. Berger said the Board should first determine the fee value of the land before acting on this issue.

Ms. Carter said the lease agreement would be a commercial enterprise and should be built on commercial, not District, property. She asked about the availability of such commercial property in the area. Mr. McCracken said there is no available appropriate land in the area.

Mr. McCracken reviewed the following four options for consideration by the Board:

- Take no action;
- Enter into a Land lease agreement for tower development;
- Adopt a resolution proposed by the Environmental Advisory Committee to develop and implement a comprehensive plan for this property; or
- Conduct a bird mortality study and review the results prior to making a decision.

The following speakers supported location of the tower on District property:

- Mr. Jerry Carr, president and CEO of WXEL;
- Mr. Warren Happle, Scripps Howard/WPTV-TV;
- Mr. Richard Zaretsky, WXEL

Ms. Mary Soher, WXEL;  
Mr. William Fenton, WXEL;  
Mr. Maurice Schwarz, WXEL Board of Trustees; and  
Mr. Bernard Hennneberg, WXEL.

The following speakers objected to the location of the tower on District property.

Ms. Rosa Durando, Audubon Society of the Everglades;  
Ms. Elaine Usherson, The Sierra Club.  
Mr. Mark Musaus, Manager, Loxahatchee National Wildlife Refuge; and  
Mr. Charles Lee, Florida Audubon

Mr. Gleason said he supports approval of the lease agreement.

Mr. Fernandez and Ms. Williams said they agree with Mr. Berger that the value of the land should be determined before proceeding.

Ms. Carter said this land was not acquired by the District for commercial use. She said she agrees with concerns expressed by environmental representatives that the tower would intrude into bird habitat.

Mr. Gleason emphasized that this plan will decrease the number of towers in the area and replace them with one equipped with correct lighting designed decrease the number of bird strikes. He said there are timing issues involved with this proposal. Mr. Gleason suggested the following directions to staff:

The District will work with WXEL to develop an agreement that will insure removal of the existing tower if WXEL is allowed to develop a replacement tower on District land;

WXEL agrees to reimburse the District for the cost of the bird mortality study if an agreement is successfully executed

The District will consider legal issues pertaining to this agreement; and

The District will recognize that the decision period is important to the broadcasters and will try to resolve the proposal in one year or less.

Chairman Collins said he is not convinced that the District fund a bird mortality study.

Mr. Gutierrez said he is not concerned that ~~about~~ the precedent that could be set by the Board's decision not to consider the proposal.

Mr. John Fumero, General Counsel, expressed concern about the proposed direction to staff. He said there is the possibility of a conflict of interest if WXEL works with staff to develop a lease agreement and the lease is then competed.

Chairman Collins said he does not feel there is consensus by the Board on the proposed direction to staff.

**Motion by Ms. Carter to dismiss consideration of this issue. Motion approved. Nay - Mr. Gutierrez , Mr. Gleason.**

## **7. Seaside Sparrow, ModWaters and Challenges for the Future**

Mr. Dewey Worth, Lead Environmental Scientist, Everglades Research & Planning, presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

Mr. Tommy Strowd, Director - Operations, Water Resource Operations, presented information on the Experimental Modified Water Deliveries issues. A copy of the material used in his presentation is included in the official record of this meeting.

Mr. Keith Rizzardi, Attorney, Office of Counsel, presented information on Southern Everglades legal issues. He asked that Board Members refrain from asking specific questions about the Cape Sable Seaside Sparrow litigation until the appropriate time.

Mr. Worth presented staff recommendations:

Identify immediate short-term implications;  
Continue assisting the USACE developing an Interim Operation Plan; and  
Update Board Members on the plan's development.

Chairman Collins said regular updates will be needed by the Board.

Ms. Elaine Usherson, The Sierra Club, said the sparrow must be protected as mandated by law.

Mr. Tom MacVicar, rep South Dade Agriculture, said only one of six sparrow populations is in conflict with South Dade Agriculture operations. He expressed support for the Interim Operating Plan.

Mr. Charles Lee, Florida Audubon Society, said it is important to understand that the Everglades ecosystem is endangered. He said the sparrow is one component of that.

## **8. Discussion of the Comparative Analysis of Laboratory Monitoring Projects**

Ms. Maxine Cheesman, Director, Water Quality Monitoring Division, presented information on this item. A copy of the material used in her presentation is included in the official record of this meeting.

Mr. Minton suggested that staff utilize the U.S. Department of Agriculture laboratory facilities located in the Upper East Coast.

### **BOARD COMMENT**

Chairman Collins said the Board has asked for a Retreat with the Executive Director to be scheduled for January 14, 2000 at a location to be determined in the Florida Keys.

### **GENERAL PUBLIC COMMENT**

Mr. John Arthur Marshall, Environmental Advisory Committee, asked for Board direction on flowways implementation. Chairman Collins said the Board will provide the direction.

### **ADJOURNMENT**

There being no further business to come before the Board, the workshop meeting was adjourned at 4:36 p.m.

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MICHAEL COLLINS, CHAIRMAN

(Corporate Seal)

Attest:

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FRANK FINCH, SECRETARY

/aab



MINUTES OF A MEETING OF THE GOVERNING BOARD  
OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
HELD AT OFFICES OF THE DISTRICT,  
3301 GUN CLUB ROAD, WEST PALM BEACH FLORIDA  
THURSDAY, DECEMBER 9, 1999  
8:30 A.M.

The following **Board Members** were present

Michael Collins, Chairman  
Michael Minton  
Vera Carter  
Mitchell Berger  
Nicolas Gutierrez  
Patrick Gleason  
Trudi Williams  
Harkley Thornton  
Gerardo Fernandez

Frank R. Finch, Executive Director

**CALL TO ORDER**

Chairman Collins called the meeting to order at 8:30 a.m., followed by an inspirational performance by the Aquatones and the pledge of allegiance to the Flag of the United States of America

**Presentations:**

Board Members and Mr. Finch presented the District's 25 Years Service Award to Mr. Howard Ehmke, Lead Professional Surveyor & Mapper, Engineering and Project Management Division, and to Mr. Robert Martens, Sr. Supervising Scientific Associate, West Palm Beach Data Collection

Mr. Jerry Fernandez, Chairman of the Human Resources Committee recognized November's Employee/Team of the Month: The S-6 Diversion Project Team: Mr. Victor Powell, Chief Consulting Engineer, Everglades Construction Project, Ms. Agnes Ramsey, Senior Engineer, Everglades Construction Project, Mr. Keith Greenwood, Sr. Engineering Associate, Engineering & Project Management, and Mr. Zan Kugler, Division Director, Engineering & Project Management.

Mr. Finch recognized the following employees for the Special Recognition Award: Ms. Patti Nicholas, Supervising Professional, Budget Division, Ms. Rosanne Smith, Employee Relations Manager, Human Resources, and Ms. Lissette Sori, Assistant to the Executive Director, Executive Office.

## **Approval of Minutes**

Chairman Collins noted changes to the November 9, 1999 Workshop Minutes handed out as additional back-up. A copy of the corrected minutes is included in the official record of this meeting.

**Motion by Mr. Minton to approve the Minutes of the Governing Board Workshop/Meeting of November 9, 1999 and the Governing Board Regular Meeting of November 10, 1999 as corrected.**

## **II. GOVERNING BOARD BUSINESS CONSENT AGENDA REVIEW**

### **Additions, Deletions, Substitutions**

Mr. Darryl Bell, Governing Board Support/Business Operations, Executive Office, noted changes to the agenda. A copy of the revised agenda is included in the official record of this meeting.

### **Abstentions**

A copy of Board Member abstentions is included in the official record of this meeting.

**Confirm the Business Consent Agenda items pulled for discussion at Wednesday Workshop.**

Mr. Finch noted that item 18A has been pulled for discussion.

## **III. GOVERNING BOARD MEETING SCHEDULE**

### **1. Consider Schedule for Upcoming Meetings.**

Mr. Finch presented the schedule. A copy of the schedule is included in the official record of this meeting.

### **2. Consider Tentative Agenda for January Workshop.**

Mr. Finch presented the January Workshop tentative agenda. A copy of the tentative agenda is included in the official record of this meeting.

### **3. Accept the Human Resources Committee Report including Recommended Actions.**

Mr. Fernandez, Chairman, Human Resources Committee, presented the report. A copy of the report is included in the official record of this meeting.

**PUBLIC HEARING at 9:00 A.M.**

#### **IV. \*OPEN THE PUBLIC HEARING\***

Chairman Collins opened the public hearing.

#### **WATER RESOURCES MANAGEMENT**

##### **Real Estate, Engineering & Construction**

- ~~4. Authorize a resolution advising the Department of Environmental Protection of the Save Our Rivers Land Acquisition Program adopted budget needs for FY00, utilizing up to five percent of the District's allocation from the Water management Lands Trust fund for pre-acquisition costs associated with preliminary and preparatory activities as necessary for the District to pursue acquisition of the fee or other legal interest in lands pursuant to the Save Our Rivers Program and authorize the Executive Director, or his designee, to request reimbursement on a quarterly basis based on actual expenditures for pre-acquisition activities.~~

This item was deleted.

- ~~5. Approve the purchase of land interests containing 0.42 acres, more or less, in Polk County, Tiger Lake, Kissimmee Chain of Lakes Project, and authorize a Resolution to the Department of Environmental Protection requesting reimbursement for this acquisition and associated costs.~~

This item was deleted.

##### **6. A. Consideration of Berry Groves Acquisition.**

Mr. William Malone, Deputy Executive Director, Water Resources Management, presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

Mr. Malone said no action by the Board is needed at this time. He said this item is on the agenda to allow public comment.

Mr. John Fumero, General Counsel, noted that this item was tabled last month. He said the item can be reconsidered today by motion of the Board. He said if the item is not taken from the table by vote of the Board, the item will expire.

Mr. Charles Lee, Florida Audubon Society, urged the Board to approve the acquisition. He noted that government agencies often must pay more than the appraised price for property it acquires. Mr. Lee said this acquisition will complete one element of the restudy project and the cost benefit of that outweighs the concern over the high price of the property.

Ms. Erin Deady, National Audubon Society, urged the Board to proceed with the acquisition. She said the acquisition of this land will provide 160,000 acres of water storage capability.

Mr. William E. Kemper, representing Jack M. Berry, Inc., said his client is willing to discuss possible acquisition, but cannot give away this asset.

Mr. Berger said he supports acquisition. He said it should be difficult and expensive for any government agency to acquire private property. He said the Board should understand and accept that fact.

**Motion by Mr. Berger to take this item from the table.**

Mr. Gleason said he opposes acquisition. He said the asking price is \$15 million over the appraised price, and is not in the District's best interests. He said approval will set a dangerous precedent and is not supported by Governor Jeb Bush.

Mr. Minton disagreed. He said this item is an opportunity for the Board to show leadership.

Chairman Collins said a funding package for Everglades Restoration is currently being reviewed by Governor Bush. He said the Governor's Office is concerned about the cost of acquiring this property, and approval by the Board could damage the funding process.

Ms. Carter said she supports acquisition. She suggested that the public be educated as to the value of purchasing property in this location. Ms. Carter said the property is not over-valued.

Ms. Williams and Mr. Thornton expressed concern about the constraints involved in the appraisal process.

Mr. Fernandez and Mr. Gutierrez said they do not support this acquisition. Mr. Gutierrez said he is sympathetic to Mr. Berger's position, but this is an imperfect deal at this stage.

Chairman Collins asked for a vote on whether to call the question on Mr. Berger's motion. Board Members agreed to call the question. Mr. Minton voted Nay.

**Motion by Mr. Berger to remove the tabled item from the table and bring it back before the Board for consideration. Motion denied. Aye – Mr. Berger Mr. Minton, Ms. Carter. Nay – Chairman Collins, Mr. Gleason, Ms. Williams, Mr. Gutierrez, Mr. Thornton, Mr. Fernandez.**

- B. Approve an Amendment to the Application for Federal Assistance and Grant Agreement LWCF-1 with the U.S. Department of the Interior ("Interior") to increase the Grant Award in an amount between \$13.9 Million and approximately \$18 Million.**

Mr. Blair Littlejohn, Director, Real Estate, presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

Ms. Shannon Estenoz, Everglades Coalition, commented on item 6A. She urged the Board to reconsider the acquisition.

**Motion by Mr. Minton to approve an Amendment to the Application for Federal Assistance and Grant Agreement LWCF-1 with the U.S. Department of the Interior ("Interior") to increase the Grant Award in an amount between \$13.9 Million and approximately \$18 Million, as determined by Interior for purchase of land interests within the East Coast Buffer and Everglades Watershed Area and authorize the Executive Director, or his designee, to execute the Amendment. Motion approved.**

- 7. Approve the purchase of land interests containing 45 acres, more or less, in Lee County, CREW Project.**

Mr. LittleJohn presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

**Motion by Mr. Gleason to approve the purchase of land interests containing 45 acres, more or less, in Lee County, CREW Project, approve declaring surplus, disposal of, and removal from the asset records, any such structures and improvements deemed unnecessary for the stated purpose of the original land acquisition and authorize a Resolution to the Board of Trustees of the Internal Improvement Trust Fund requesting reimbursement for this acquisition and associated costs. Motion approved.**

- 8. Approve Interlocal Agreement with Martin County for the acquisition of lands and management in the Atlantic Ridge Ecosystem CARL and Save Our Rivers Project.**

Mr. LittleJohn presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

**Motion by Mr. Gleason to approve Interlocal Agreement with Martin County for the acquisition of lands and management in the Atlantic Ridge Ecosystem CARL and Save Our Rivers Project and authorize the Executive Director or designee to execute the agreement. Motion approved.**

- 9. Approve Amendment to Agreement for Sale and Purchase for the acquisition of land interests containing 2,536.09 acres, more or less, in Martin County.**

Mr. LittleJohn presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

**Motion by Mr. Gleason to approve an Amendment to Agreement for Sale and Purchase for the acquisition of land interests containing 2,536.09 acres, more or less, in Martin County, Atlantic Ridge Ecosystem Project. Motion approved.**

- 10. Approve the purchase of land interests containing 14.93 acres, more or less, in Miami-Dade County, East Coast Buffer Project.**

Mr. LittleJohn presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

**Motion by Mr. Fernandez to approve the purchase of land interests containing 14.93 acres, more or less, in Miami-Dade County, East Coast Buffer Project, and authorize a Resolution to the Trustees of the Internal Improvement Trust Fund and/or the Department of Environmental Protection requesting reimbursement for this acquisition and associated costs. Motion approved.**

- 11. Approve the purchase of land interests containing 4.75 acres, more or less, in Miami-Dade County, 8.5 Square Mile Project (Phase I).**

Mr. LittleJohn presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

**Motion by Mr. Fernandez to approve the purchase of land interests containing 4.75 acres, more or less, in Miami-Dade County, 8.5 Square Mile Project (Phase I), approve declaring surplus, disposal of, and removal from the asset records, any such structures and improvements deemed unnecessary for the stated purpose of the original land acquisition and authorize a Resolution to the Department of Environmental Protection requesting reimbursement for this acquisition and associated costs. Motion approved. Nay – Mr. Gutierrez.**

- 12. Approve acceptance of a donation of fee interest in lands consisting of 1.25 acres, more or less, in Section 28, Township 24 South, Range 28 East, Orange County, Florida within the Shingle Creek Project and authorize a Resolution to the Department of Environmental Protection requesting reimbursement for associated costs.**

Mr. LittleJohn presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

**Motion by Mr. Thornton to approve acceptance of a donation of fee interest in lands consisting of 1.25 acres, more or less, in Section 28, Township 24 South, Range 28 East, Orange County, Florida within the Shingle Creek Project and authorize a Resolution to the Department of Environmental Protection requesting reimbursement for associated costs. Motion approved.**

- 13. Approve declaring surplus land interests containing 0.7 acres, more or less, in the 8.5 Square Mile Area, Miami-Dade County, authorize the transfer of District land interests to the United States of America, the Department of the Army, U.S. Army Corps of Engineers, and authorize the waiver of the \$1000.00 application fee, containing 0.7 acres, more or less, in the 8.5 Square Mile Area, Miami-Dade County.**

Mr. LittleJohn presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

Mr. James Brownell, U.S. Army Corp of Engineers (USACE), said the Corps plans to acquire this land.

**Motion by Ms. Carter to approve declaring surplus land interests containing 0.7 acres, more or less, in the 8.5 Square Mile Area, Miami-Dade County, authorize the transfer of District land interests to the United States of America, the Department of the Army, U.S. Army Corps of Engineers, and authorize the waiver of the \$1000.00 application fee. ~~containing 0.7 acres, more or less, in the 8.5 Square Mile Area, Miami-Dade County.~~ Motion approved.**

14. **Consider acquisition of SOR lands.**

**Authorize acquiring property subject to a title exception for an amended sidewalk agreement between Griffin Brothers, Inc. and Broward County.**

Mr. LittleJohn presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

**Motion by Mr. Gleason to authorize acquiring property subject to a title exception for an amended sidewalk agreement between Griffin Brothers, Inc. and Broward County. Motion approved.**

## **WATER RESOURCES OPERATIONS**

### **Land Stewardship**

15. **Approve resolution advising the Department of Environmental Protection of the Save Our River Program, Water Resource Operations, adopted budget needs for FY 2000 utilizing funds in the amount of \$6,655,681 from the Water Management Lands Trust Fund (WMLTF).**

Mr. Fred Davis, Director, Land Stewardship, Water Resource Operations Department, presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

**Motion by Mr. Minton to approve a resolution advising the Department of Environmental Protection of the Save Our River Program, Water Resource Operations, adopted budget needs for FY 2000 utilizing funds in the amount of \$6,655,681 from the Water Management Lands Trust Fund (WMLTF) and authorize Executive Director or his designee to request reimbursement on a quarterly basis based on actual expenditure for land management, maintenance, and capital improvement activities. Motion approved.**

### **\*CLOSE THE PUBLIC HEARING\***

Chairman Collins closed the public hearing.

**End of Public Hearing**

## **V. MORNING DISCUSSION AGENDA**

## **BUSINESS DISCUSSION AGENDA ITEMS**

### **16. REPORT FROM THE ADVISORY COMMITTEES**

#### **Environmental Advisory Committee**

Mr. John Marshall, Chairman, Environmental Advisory Committee, presented the report. A copy of the material used in his presentation is included in the official record of this meeting.

#### **Loxahatchee River Management Coordination Council**

Mr. Anthony Gravett, Chairman, Loxahatchee River Management Coordination Council, presented the report. He said the Council approved a resolution requesting that the Board give highest priority to funding of a Basin Management Plan.

### **17. OMBUDSMAN'S REPORT**

Mr. Richard E. Williams, District Ombudsman, presented the report. A copy of the material used in his presentation is included in the official record of this meeting.

## **CORPORATE RESOURCES**

#### **Information Technology**

### **18. Y2K Readiness Evaluation Report.**

Mr. Tom Hagood, PricewaterhouseCoopers, presented the report. He said the report concludes that the District has followed industry accepted practices and has found no issues of concern.

Mr. Berger commended Mr. Trevor Campbell, Director, Information Technology, for his efforts on this project.

## **OFFICE OF COUNSEL**

### **18A. Adoption of a Resolution in support of Frank E. Finch's confirmation by the Florida Senate as Executive Director.**

Mr. John J. Fumero, General Counsel, suggested there may be a better way to communicate the Board's support for the Executive Director's confirmation. Chairman Collins said the Board wishes to determine the best medium for this message.

## **WATER RESOURCES MANAGEMENT**

#### **Real Estate, Engineering & Construction**



**C19. Authorize entering into a 330 day contract with TBD Centex Rooney Construction Company for the B-50 Replacement Project - Construction Management in the amount of \$TBD \$105,000 (for pre-construction services)**

Mr. Mike Hiscock, Lead Engineer, Engineering & Project Management, presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

**Motion by Ms. Carter to authorize entering into a 330 day contract with TBD Centex Rooney Construction Company for the B-50 Replacement Project - Construction Management in the amount of \$TBD \$105,000 (for pre-construction services) for which funds are budgeted. (Contract Number C-10465). Motion approved.**

**Water Supply Planning, Permitting & Development**

**20. Authorize revisions to the District's Alternative Water Supply Funding Program project ranking criteria and program guidelines.**

Dean Powell, Deputy Director, Water Supply Planning, Permitting & Development, presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

**Motion by Mr. Gleason to authorize revisions to the District's Alternative Water Supply Funding Program project ranking criteria and program guidelines. Motion approved.**

Mr. Samy Faried, Lee County Regional Water Authority, urged the Board to increase the District's budget to expand this project.

Ms. Carlyn Kowalsky, Florida Water Services/Private Utilities, said her clients support approval of this item.

Mr. Roy Reynolds, Broward County, said the county supports approval of this program.

**21. C&SF Restudy Update**

Mr. Tom Teets, Sr. Supervising Planner, Water Resource Program Accountability, Water Supply Planning & Permitting, Water Resource Management, presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

Mr. J.W. French, President, Florida Water Council, presented a position paper against support of any new taxes or fees until a complete evaluation of the budget process is done to re-direct existing funds o Everglades restoration.

Chairman Collins moved item 22 to later in the meeting to accommodate members of the public who wish to speak on this item.

### **23. Update on Lower East Coast Regional Water Supply Plan**

Mr. John Mulliken, Water Supply Planning and Development, Water Resources Management, presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

### **WATER RESOURCES OPERATIONS**

#### **Field Operations – North (Clewiston/Okeechobee Field Station)**

- C24. Authorize entering into a 3 year contract with Palmdale Oil Company, Inc. to serve as a single, master locktender, in the Clewiston, Okeechobee and Kissimmee Field Station service areas, in the amount of \$1,852,000.**

Mr. Joseph Taylor, Deputy Executive Director for Water Resources Operations, presented information on this item. A copy of the material used in his presentation is included the official record of this meeting.

**Motion by Mr. Fernandez to authorize entering into a 3 year contract with Palmdale Oil Company, Inc. to serve as a single, master locktender, in the Clewiston, Okeechobee and Kissimmee Field Station service areas, in the amount of \$1,852,000, of which \$450,000 is budgeted and the remaining is subject to Governing Board approval of the FY2001 - FY2003 budgets. (Contract Number C-11601). Motion approved.**

## **REPORT FROM THE EXECUTIVE DIRECTOR**

### **25. Water Management Highlights**

Mr. Finch presented the report. A copy of the material used in his presentation is included in the official record of this meeting.

Mr. Finch distributed copies of the Hurricane Irene Report to the Board. He said the report will be the basis of discussion at the Monday, December 13, Governing Board Meeting.

### **26. Water Conditions Report**

Mr. Tommy Strowd, Director – Operations, Water Resource Operations, presented the report. A copy of the report is included in the official record of this meeting.

### **27. Office of Counsel Update**

Mr. John J. Fumero, General Counsel, presented the update. A copy of the material used in his presentation is included in the official record of this meeting.

Mr. Fumero noted that Mr. Keith Rizzardi, Attorney, Office of Counsel, has been named Pro Bono Attorney for the Fifth Judicial District Circuit.

## **End of Morning Discussion Agenda**

## **BOARD COMMENT**

Mr. Berger expressed concern over the Board action on item 6A. He called on the Board to act independently to bring the Berry Groves acquisition back for consideration.

Ms. Carter agreed. She said there is no reason that another motion cannot be made today.

## **VI. BUSINESS CONSENT AGENDA – 1:00 P.M.**

### **Pull Items from Business Consent Agenda**

Chairman Collins confirmed that items 66, 68, and 69 have been pulled. He said items 59, 61, 63, and 64 have been postponed.

**Motion to Approve Business Consent Agenda items, except for items pulled for discussion**

**Motion by Mr. Gleason to approve the Business Consent Agenda items, except for items 66, 68, and 69, which were pulled. Motion approved.**

*The following items were approved as part of the Business Consent Agenda:*

**BUSINESS CONSENT AGENDA ITEMS**

**CORPORATE RESOURCES**

**Finance and Administration**

- 36. **Approve** Budget Transfers.
- 37. **Approve** Certificates of Correction of the Non-Ad Valorem Everglades Agricultural Privilege Tax Role and **authorize** the Executive Director, or his designee, to sign the certificates.
- C38. **Authorize** entering into a 3 year contract with Art Hall Protection Service, Inc. for ENR and STA1 site security in an amount not to exceed \$358,743 for which \$86,400 is budgeted and the remaining is subject to Governing Board approval of the FY2001-03 budgets. (Contract Number C-10519) **COMPETITIVE**
- C39. **Authorize** entering into a 33 month contract with Danka Office Imaging for color copier equipment lease for the period 1/1/2000 through 9/30/2002 in the not-to-exceed amount of \$144,210 of which \$36,585 is budgeted and the remaining \$107,625 is subject to Governing Board approval of the FY2001-FY2002 budgets. (Contract Number C-10327) **COMPETITIVE**
- C40. **Authorize** an amendment with C & D Development for the Chemistry Lab lease to extend the term by 1 year in an amount not to exceed \$91,542 of which \$68,657 is budgeted and the remaining subject to Governing Board approval of the FY2001 budget. (Contract Number C-6415-A03) **NON-COMPETITIVE**

**General Services**

- 41. **Authorize** the Disposal of Assets and Removal from Property Records.

**Human Resources**

- 42. **Authorize** the designation of the positions of Deputy Executive Director - Water Resource Management, Deputy Executive Director - Water Resource Operations and Deputy Executive Director - Corporate Resources to be included in the Florida

Retirement System Senior Management Service Class as provided for by Chapter 121.055, Florida Statutes.

**Information Technology**

- C43. **Authorize** an amendment as a Waiver of Competition with Bell South Communications Systems to procure NEC and Centigram hardware/software and to contract for phone modifications directly from Bell South through 9/30/00 in the amount of \$351,297 of which \$164,297 is budgeted and authorize a budget transfer in the amount of \$187,000 from B-50 Replacement project. (Contract Number C-8358-A04) **NON-COMPETITIVE**

### **Water Quality & Resources**

- ~~C44. **Authorize** entering into a 3 year contract with Broward County Department of Planning and Environmental Protection for water quality sampling of ground water and surface water in the amount of \$149,262 for which funds are budgeted and which will be partially reimbursed to the District by the FDEP Ambient Monitoring Program. (Contract Number C-11742) **NON-COMPETITIVE**~~

### **EVERGLADES CONSTRUCTION PROJECT**

- C45. **Authorize** a retroactive change order to a contract with Harry Pepper & Associates, Inc., to extend the term from November 4, 1999 by 57 days in the amount of \$219,803.03 for which funds are unbudgeted; and **authorize** a budget substitution in the same amount from Everglades Construction Project, Water Control Structures. (Contract Number C-E107-CO07) **NON-COMPETITIVE**

### **EXECUTIVE OFFICE**

46. **Approve** a retroactive Waiver of Competition with Innovative Leisure for professional recreation services at the District's 50<sup>th</sup> Anniversary Picnic in the amount of \$29,280.

### **GOVERNMENT AFFAIRS AND COMMUNICATIONS**

#### **Big Cypress Basin**

- C47. **Authorize** an amendment with the Florida Department of Environmental Protection for continuing land acquisition in Southern Golden Gate Estates (SGGE) CARL project to extend the term by 1 year and to increase funding in the amount of \$70,000 for which funds are budgeted. (Contract Number C-3133-A08) **NON-COMPETITIVE**

#### **Fort Myers Service Center**

- C48. **Authorize** an amendment with Florida Fish & Wildlife Conservation Commission for management of the Corkscrew Regional Ecosystem Watershed in an amount not to exceed \$375,000 of which \$75,000 is budgeted and the remaining \$300,000 is subject to Governing Board approval of the FY2001-FY2004 budgets, and to retroactively adjust the funding period from October 1, 1999 for five years. (Contract Number C-5213-A02) **NON-COMPETITIVE**

#### **Miami Service Center**

- C49. **Authorize** an amendment with Florida Fish & Wildlife Conservation Commission, for a cooperative management agreement for the Southern Glades Wildlife Management area to retroactively extend the term from October 1, 1999 for 5 years in an amount not to exceed \$433,560, of which \$86,712 is budgeted and the remaining \$346,848 is subject to Governing Board approval of the FY2001-FY2004 budgets,. (Contract Number C91-2433-A08) **NON-COMPETITIVE**

#### **Okeechobee Service Center**

- C50. **Authorize** an amendment with Florida Fish & Wildlife Conservation Commission for a cooperative management agreement at KICCO Wildlife Management Area and the east side of Pool A (2,571 acres) to retroactively extend the term from October 1, 1999 for 5 years in an amount not to exceed \$500,000 of which \$100,000 is budgeted and the remaining \$400,000 is subject to Governing Board approval of the FY2001 - FY2004 budgets. (Contract Number C91-2381-A05) **NON-COMPETITIVE**

#### **OFFICE OF COUNSEL**

51. **Authorize** settlement of eminent domain trial costs in the amount of \$360,503.77 incurred by the landowner in defense of the condemnation action regarding 816.3 acres within the boundary of STA-1E styled South Florida Water Management District v. Busbee, Wilkins and Sealy, Inc., et al.

#### **WATER RESOURCES MANAGEMENT**

##### **Environmental Resource Regulation**

52. **Authorize** acceptance of \$50,210.85 from Otero Tomlin & Tomlin, P.A., to be directed to the District's Wetland Mitigation Fund to be used to acquire, enhance and manage 8.175 acres of wetlands within the Pennsuco region of Miami-Dade County.

##### **Real Estate, Engineering and Construction**

53. **Approve** staff recommendations for releases of District canal, mineral and road reservations, releases of T.I.I.T.F. canal reservations, and issuances of non-use commitments.
54. **Approve** entering into an Agreement to terminate a deed restriction encumbering .5 acres, more or less, in Glades County.
55. **Approve** acceptance of a donation of land interests containing 3.0 acres, more or less, in Hendry County, Caloosahatchee (C-43) Canal.
56. ~~**Authorize** the acceptance of a Temporary Construction and Access Easement and Temporary Access Easement from Barron Collier Company, in Collier County, Florida, at no cost to the District.~~

- C57. **Authorize** an amendment with St. Lucie County Mosquito Control District (SLCMCD) for SWIM Indian River Lagoon mosquito impoundment at no cost to the District and to extend the term by 6 months to June 30, 2000. (Contract Number C-10816-A01) **NON-COMPETITIVE**
- C58. **Authorize** entering into a 5 year contract with Coalition of Florida Farmworker Organizations, Inc. for the lease of Rocky Glades agricultural land parcel 100-019, approximately 47.77 acres, Miami-Dade County, Florida, for the purpose of farming, in the amount of \$150.00 per acre per year, for a total annual revenue to the District of \$7,165.50. (Contract Number C-10491) **COMPETITIVE**
- ~~C59. **Authorize** an amendment with Florida Department of Environmental Protection (FDEP) for Surveying Services, to modify the existing agreement into a work order type agreement and to extend the term for 3 years in the amount of \$600,000 of which \$200,000 is budgeted and the remaining subject to Governing Board approval of the FY2001-FY2002 budgets. (Contract Number C-10458-A02A) **NON-COMPETITIVE**~~

This item was deleted.

### Water Supply Planning & Permitting

- C60. **Authorize** an amendment with the City of West Palm Beach for water quality data collection to extend the term for an additional 12 months through December 31, 2000 in the amount not to exceed \$21,532.48 for which funds are budgeted. (Contract Number C-7103-A04) **NON-COMPETITIVE**
- ~~C61. **Authorize** an amendment with the U.S. Department of Agriculture - Natural Resources Conservation Service, as a special procurement for mobile irrigation labs to extend the term by 9 months to June 30, 2000 and to increase funding in the amount of \$250,000 for which funds are budgeted. (Contract Number C-9120-A02) **NON-COMPETITIVE**~~

This item was deleted.

- C62. **Authorize** entering into a 1 year contract with St. Lucie Soil & Water, as a special procurement for Upper Floridan Aquifer Monitoring Network in the amount of \$125,150 of which \$62,500 is budgeted and \$62,500 provided by St. Lucie Soil and Water Conservation District/Natural Resources Conservation Service. (Contract Number C-11746) **NON-COMPETITIVE**

### Watershed Research & Planning

- ~~C63. **Authorize** entering into a 3 year work order contract with Foster Wheeler Environmental Corporation, as a Waiver of Competition, for the expert assistance of Bob J. Hopman to evaluate state-of-the-art dredging technologies for Lake Okeechobee in an amount not to exceed \$130,000 for which funds are budgeted; and **authorize** a budget transfer in the same amount from the Lake Okeechobee Managerial Reserves to the Watershed Research & Planning Department, Okeechobee Division, Professional Fees/Consulting Services. (Contract Number C-11684) **NON-COMPETITIVE**~~



This item was deleted.

~~C64. **Authorize** entering into a 2 year cooperative agreement with Florida International University, as a special procurement, for a pesticide sediment aquatic toxicity study in the amount of \$137,091 of which \$25,000 is budgeted and **authorize** a budget transfer in the amount of \$46,955 from Environmental Resource Regulation, Everglades Stormwater Program, **Watershed Research & Planning, Staff**, Interagency Expenditures-Public Universities to Watershed Research & Planning, Ecological Technologies Division, Interagency Expenditures-Public Universities, and the remainder is subject to Governing Board approval of the FY2001 budget. (Contract Number C-11725) **NON-COMPETITIVE**~~

This item was deleted.

C65. **Authorize** an amendment with Archbold Expeditions for optimization of Best Management Practices (BMPs) to extend the term by two years and increase the funding in the amount of \$280,000 of which \$140,000 is budgeted and the remaining \$140,000 is subject to Governing Board approval of the FY2001 budget. (Contract Number C-8614-A02) **NON-COMPETITIVE**

## **WATER RESOURCES OPERATIONS**

### **Land Stewardship**

C67. **Authorize** an amendment with Florida Department of Environmental Protection for a cooperative management agreement for the District lands along the Loxahatchee River in an amount not to exceed \$550,000, of which \$110,000 is budgeted for and the remaining \$440,000 is subject to Governing Board approval of the FY2001-FY2004 budgets. (Contract Number C91-2447-A05) **NON-COMPETITIVE**

### **End of Business Consent Agenda Items**

## **DISCUSSION OF ANY ITEMS PULLED FROM BUSINESS CONSENT AGENDA**

### **66. Status update on Lake Okeechobee TMDL.**

Dr. Alan Steinman, Director, Lake Okeechobee, presented information on the Total Maximum Daily Load process for Lake Okeechobee. A copy of the material used in his presentation is included in the official record of this meeting.

Dr. Steinman said staff recommends adoption of a phased implementation of the TMDL to help achieve consensus. He said the recommended TMDL of phosphorus for Lake Okeechobee would be in the 30-50 parts per billion (ppb) range.

Dr. Paul Gray, representing Audubon Okeechobee Sanctuaries, suggested 40 ppb as the acceptable TMDL for the lake. He said he supports phased implementation of the plan.

- C68. Authorize an amendment with Florida Fish and Wildlife Conservation Commission for management services at Dupuis Reserve to retroactively extend the term from October 1, 1999 for 5 years.**

Chairman Collins said this item was pulled by mistake.

**Motion by Mr. Minton to authorize an amendment with Florida Fish and Wildlife Conservation Commission for management services at Dupuis Reserve to retroactively extend the term from October 1, 1999 for 5 years in an amount not to exceed \$401,160, of which \$80,832 is budgeted and the remaining \$323,328 is subject to Governing Board approval of the FY2001-FY2004 budgets, (Contract Number C91-2111-A06). Motion approved.**

**66. Discussion of Attorney's Fees**

Ms. Ruth Clements, Attorney, Office of Counsel, presented information on this item. A copy of the material used in her presentation is included in the official record of this meeting.

**VII. REGULATORY CONSENT AGENDA – 2:00 PM**

**GOVERNING BOARD REGULATORY CONSENT AGENDA APPROVAL**

**Additions, Deletions, Substitutions**

Chairman Collins noted the following changes handed out as additional backup to Items 28 and 29 of the Regulatory Consent Agenda:

**RIGHT OF WAY**

City of Margate (page 3, paragraph 1): Change C-11 to C-14

**PERMIT APPLICATIONS**

**Water Use**

Hardie Driggers (page 6, paragraph 1): Postponed to January 13 Board

**Environmental Resource**

City Furniture - Tamarac (page 1, paragraph 3): 18.98 acres of mitigation/compensation, 2 credits in FPL Mitigation Bank

Osceola Trace/World Expo Park – Parcel 9 Development (page 14, paragraph 1):  
Postponed to January 13 Board

NOTE: Waiver was timely filed but not reflected on the December 9, 1999 Governing Board Regulatory Change Sheet due to an administrative oversight

## **Environmental Resource Denial**

Twin Eagles Phase Two (page 17, paragraph 1): Postponed to January 13 Board

## **Consent Agreement**

Sam Moore (page 19, paragraph 2): Postponed to January 13 Board

## **Petition**

Robert Vocisano (page 20, paragraph 1): Changed to read: Grant the request of applicant/petitioner Robert Vocisano to enlarge the 21 day point of entry to file a petition for an Administrative Hearing until June 15, 2000, concerning proposed Agency action to deny Environmental Resource Permit application 970923-12 for Wildewood Lakes (Collier County)

## **Abstentions**

A copy of the abstentions is included in the official record of this meeting.

## **Pull Regulatory Consent Agenda items for discussion**

No items were pulled.

## **Approve Regulatory Consent Agenda items**

**Motion by Mr. Minton to approve the Regulatory Consent Agenda as revised. Motion approved.**

*The following items were approved as part of the Regulatory Consent Agenda:*

28. Consideration of Consent Agenda for Governing Board approval which includes **Water Resources Operations** items:

Right of Way Occupancy New Permits  
Right of Way Occupancy Permit Modifications  
Right of Way Occupancy Permit Applications for Waiver of District Criteria

29. Consideration of Consent Agenda for Governing Board approval which includes **Environmental Resource Regulation** and **Water Supply Planning, Permitting & Development** items:

Water Use Permit Applications  
Surface Water Management Permit Applications (includes Conservation Easements)  
Environmental Resource Permit Applications (includes Conservation Easements)  
Everglades Works of the District Permit Applications  
Lake Okeechobee SWIM Works of the District Permit Applications

Denials  
Surface Water Management Permit Extensions  
Consent Agreements  
Petitions

### **End of Regulatory Consent Agenda Items**

## **VIII. AFTERNOON DISCUSSION AGENDA**

### **WATER RESOURCES MANAGEMENT**

#### **Environmental Resource Regulation**

#### **Surface Water Management Permit and Variance**

30. **Consider** \_\_\_\_\_

a) \_\_\_\_\_  
criteria for the **Old Trail Golf Course** \_\_\_\_\_

b) \_\_\_\_\_  
construction and operation for the **Old Trail Golf Course** \_\_\_\_\_

This item was deleted.

### **PUBLIC COMMENT**

Clements, commented on flooding problems on her clients' property. She said she will bring back a plan to the Board to address

Ms. Rosa Durando, Audubon Society of the Everglades, expressed concern about

Chairman Collins suggested that the Board consider item 22 at this time. Board Members agreed.

#### **Flow-way Discussion**

Mr. Tom

Supply Planning & Permitting, Water Resource Management, presented information on this item. A copy of the material used in his presentation is included in the official record of this

Mr. Max Quackenbos, Martin County Conservation Alliance, said the flow-way concept

Mr. John Arthur Marshall, Arthur R. Marshall Foundation, said more consideration should be given to the flow-way concept.

Chairman Collins said it is not prudent to use District staff and funding to review this issue.

## **Memorandum of Agreement**

### **31. Execute the Unit 11 Regional Offsite Mitigation Area Memorandum of Agreement between SFWMD, Palm Beach County, Army Corps of Engineers and Department of Environmental Protection.**

Mr. Rob Robbins, Director, Natural Resource Management Division, Environmental Resource Regulation Department, presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

Mr. Ed Weinberg, EW Associates, expressed support for the agreement and the need to have multiple mitigation options available.

Mr. Stephen Collins, Everglades Mitigation Bank, expressed concern that the agreement, as it is crafted today, does not adequately protect the resource.

Mr. Frank Matthews, Florida Wetland Stewardship Group, said this project will not solve the problem of wetland impacts.

Ms. Erin Deady, National Audubon Society, expressed support for approval of the Memorandum of Agreement (MOA).

Ms. Rosa Durando, Audubon Society of the Everglades, expressed support for approval of the MOA.

Ms. JoAnne Davis, 1000 Friends of Florida, expressed support for approval of the MOA.

Mr. Ray Pavelka, Florida Association of Private Mitigation Banks, said his client does not support this action.

Ms. Barbara Susco, a local realtor, said there is no chance that this project will succeed. She urged the Board not to support the MOA.

Mr. Mike Scott, Florida Wetland Stewardship Group, said the MOA is unfair.

Mr. Jonathan Weiss, Foster Wheeler Environmental Corporation, asked that the Board forego action on this item until the January 2000 meeting.

Mr. John Van Arnem, Deputy Director, Palm Beach County Department of Environmental Resources Management, said the county supports approval of the MOA.

## **Memorandum of Agreement between SFWMD, Palm Beach County, Army Corps of**

Mr. John Fumero, General Counsel, noted that Foster Wheeler Environmental between the District and Foster Wheeler. He said that staff does not feel executing the MOA will violate that agreement.

Minton asked that wording be added to the motion to provide that at the end of five years, a certain degree of acquisition is reached so that improvements to the environment can

**Memorandum of Agreement between SFWMD, Palm Beach County, Army Corps of Engineers and Department of Environmental Protection and if, after five (5) years from the execution of this Agreement, any unit of restoration has not achieved a 70 percent level of acquisition, the County will submit a proposal to the District to consolidate individual properties to achieve this level of ownership. Motion approved.**

***Board Members returned to consideration of item 6A.***

### **6A. Consider Berry Groves Acquisition**

Ms. Carter said she has been advised by Office of Counsel that a motion on this item would be proper.

**Motion by Ms. Carter to direct staff to negotiate an option with the owner of Berry Groves for \$100 to purchase the property within the next 90 days at a price not to exceed \$70 million.**

Chairman Collins said he cannot support this motion.

**Motion denied. Aye – Ms. Carter, Mr. Minton, Mr. Berger. Nay – Chairman Collins, Mr. Fernandez, Mr. Gutierrez, Mr. Thornton, Mr. Gleason, Ms. Williams.**

Board Members adjourned to the Closed Door Session.

## **OFFICE OF COUNSEL**

### **CLOSED DOOR SESSION**

32. Attorney-Client Session pursuant to Fla. Stat. Section 286.011(8) (1993) to discuss settlement negotiations or strategy related to litigation expenditures in Miccosukee Tribe of Indians of Florida v. South Florida Water Management District, et al., U.S. District

of the Everglades v. South Florida Water Management District, U.S. District Court,

33. Attorney-Client Session pursuant to Fla. settlement negotiations or strategy related to litigation expenditures in Natural Resources Defense Council, Inc. v. U.S. Army Corps of Engineers and South Florida Water

#### **FOLLOWING THE CLOSED DOOR SESSION**



- 34. Miccosukee Tribe of Indians of Florida v. South Florida Water Number 98-6056-CIV-FERGUSON, and Friends of the Everglades v. South Florida Water Management District, U.S. District Court, Southern District of Florida, Case preceding closed door session.**

No action

- 35. Consider action in Natural Resources Defense Council, Inc. v. U.S. Army Corps of Court, Southern District of Florida, if necessary, based upon discussion during the preceding closed door session.**

## **ADJOURNMENT**

There being no further action to come before the Board, the meeting was adjourned at 4:30 p.m.

**OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
HELD AT OFFICES OF THE DISTRICT,**

**MONDAY, DECEMBER 13, 1999  
9:00 A.M.**

**Board Members** were present

Michael Minton (via teleconference)

Mitchell Berger

Nicolas

Patrick Gleason

Gerardo Fernandez

Frank R. Finch, Executive Director

Chairman Collins called the meeting to order at 9:00 a.m

**1. Board questions for staff about any items on Agenda.**

Chairman Collins asked about a meeting with U.S. Army Corps of Engineers officials to discuss the Cape Sable Seaside Sparrow issue. Mr. Finch said the meeting will be held in the William V. Storch Room at approximately 3:30 p.m.

**2. After Action Report, Hurricane Irene**

Mr. Joseph A. Schweigart, Director, Everglades Construction Project, presented information on this item. A copy of the material used in his presentation is included in the official record of this meeting.

Mr. Schweigart said the amount of rainfall from Hurricane Irene would have produced flooding regardless of the flood control system in place at the time. He said serious and controversial flood conditions occurred in Broward, Palm Beach, Martin, and Miami-Dade Counties.

Mr. Gleason suggested that staff determine flood impacts on natural areas, including tree islands, and present that information as part of future storm event reports to the Board.

Mr. Schweigart presented a list of recommendations that resulted from the report. A copy of the recommendations is included in the official record of this meeting.

Mr. Mike Black, a Miami-Dade County resident, expressed concern about the District's response to the storm event. He said staff exhibited poor judgement in some of its actions prior to the hurricane.

Mr. Robert Johnson, Research Director, Everglades National Park, expressed concern about the District's response to the hurricane, particularly the timing of the opening of District structures as the hurricane progressed. He said changes are needed to the criteria that determines when certain structures will be opened in an emergency.

Mr. Tom MacVicar, representing the South Dade Water Coalition, urged the Board to proceed with implementation of the Model Waters Project. He said closer communication is needed among the District, the U.S. Army Corps of Engineers (USACE), and Everglades National Park.

Ms. Joette Lorion, representing the Miccosukee Tribe of Indians of Florida, agreed that the District should proceed with the Model Waters Project.

Mr. Fernandez asked that Chairman Collins and Mr. Finch set a timeline for discussions by interested parties on this issue. Chairman Collins asked that staff present a schedule for those meetings to the Board in January.

Mr. Fernandez further suggested that staff officially communicate to Miami-Dade County officials the need to maintain the secondary drainage system in that area. He said specific plans are needed to address concerns about drainage in Everglades National Park and the South Dade conveyance system. He asked if there is any issue that the Board can address quickly to get discussion started on this issue. Mr. Finch said staff will report back at the next Board meeting.

Mr. Berger commended staff for its work on the report.

### **3. Corps of Engineers Status of Modeling Activities for 8.5 Square Mile Area Alternatives**

*Board Members agreed to take public comment at the beginning of this item.*

Ms. M. Fortin, a Miami resident, said homeowners in the 8.5 Square Mile Area are being prevented from draining flood water from their land by the District. Chairman Collins said staff will address those concerns.

Mr. Dewey Worth, Lead Environmental Scientist, Everglades Research & Planning, presented information on 8.5 Square Mile issues facing the District. A copy of the material used in his presentation is included in the official record of this meeting.

Ms. Sheryl Ulrich, Project Manager, USACE, presented information on the Modeling Activities for 8.5 Square Mile Area Alternatives, including the process description, the project scoping process, and a modeling update. A copy of the material used in her presentation is included in the official record of this meeting.

Ms. Ulrich said an Alternative Evaluation package will be brought to the Board for discussion.

Mr. Charles Sinclair, a USACE consultant, presented additional information on the project scoping process.

Mr. Berger expressed concern about the value of this modeling effort. Mr. Richard Bonner, USACE, said the value lies in the fact that this effort will meet U.S. Environmental Protection Agency requirements.

Mr. Chris Brown, USACE Engineering Division, presented information on 8.5 Square Mile Alternatives. He said alternatives include:

- Construction of a new Stormwater Treatment Area (STA);
- Construction of a "cutoff wall" for the area;
- Acquisition of land from willing sellers;
- A total buy-out of area landowners;
- A combination of buy-out (of willing sellers) and flood protection for others;

or

- Raising roadbed levels in the area.

Mr. Berger expressed concern about the process to gain public input on this effort. He asked if the list of alternatives was developed in open meeting. Mr. John Fumero, General Counsel, said the alternatives were developed as part of the federal process and does not fall under Florida's Government in the Sunshine Law. Mr. Fumero said no alternative will be selected until the options are presented to the Board in open meeting. He said the Board will then decide

on the alternatives.

Chairman Collins said staff has been instructed to publicly notice any meeting where the alternative list is narrowed. Mr. Worth said Office of Counsel will be consulted to determine which meetings should be noticed.

Ms. Maria Gonzalez-Rauchmann, a property owner in the 8.5 Square Mile Area, asked that the Board follow an Everglades Restoration plan that does not require the removal of residents in her area.

## **ADJOURNMENT**

Chairman Collins adjourned the meeting at 1:55 p.m. to go into the Attorney-Client Session.

*The following item was discussed at approximately 2:00 p.m.*

## **Reconvene**

Chairman Collins reconvened the December 9, 1999 Attorney-Client Session at 2:00 p.m.

4. **Attorney-client Session pursuant to Fla. Stat. Section 286.011(8) (1993) to discuss settlement negotiations or strategy related to litigation expenditures in Natural Resources Defense Council, Inc. v. U.S. Army corps of Engineers and South Florida Water management District, etc., et al., U.S. District Court, Southern District of Florida.**

MINUTES OF AN EMERGENCY MEETING OF THE GOVERNING BOARD  
OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
HELD AT OFFICES OF THE DISTRICT,  
3301 GUN CLUB ROAD, WEST PALM BEACH FLORIDA  
FRIDAY, DECEMBER 17, 1999  
1:00 P.M.

The following **Board Members** were present

Michael Collins, Chairman  
Michael Minton (via teleconference)  
Vera Carter (via teleconference)  
Mitchell Berger  
Harkley Thornton  
Gerardo Fernandez

Frank R. Finch, Executive Director

**CALL TO ORDER**

Chairman Collins called the meeting to order at 1:00 p.m.

Chairman Collins said staff has serious questions and concerns about the U.S. Army Corps of Engineers' Interim Structural and Operating Plan for Hydrological compliance with the Cape Sable Seaside Sparrow Biological Opinion for the Year 2000.

**1. Introduction**

Mr. Finch said the purpose of the emergency meeting is to discuss the Interim Plan and Biological Opinion, and to bring staff's concerns to the Board. He said the Biological Opinion was issued along with a Reasonable and Prudent Alternative (RPA) to achieve the goals of the opinion.

Mr. Finch said the emergency meeting is necessary in order to address the public health and safety and welfare implications of the plan, which include, but are not limited to, the potential for flooding and its associated impact. He said the Board will be asked today to decide on how to move forward, and will be presented with a recommendation by staff.

## **2. Overview of the Plan as briefed December 13, 1999**

Mr. Tommy Strowd, presented information on the USACE Interim Structural and Operating Plan presented to the Board in December 1999. A copy of the material used in his presentation is included in the official record of this meeting.

Mr. Strowd said the plan requires changes in the operation of the Central and South Florida Flood Control System to avoid jeopardizing the sparrow, and a "Reasonable and Prudent Alternative" to achieve that goal was presented in the Biological Opinion.

Mr. Strowd noted that hydrologic conditions for the area in question show above average wet season through mid-October of last year, and Hurricane Irene dropped excessive rainfall over much of south Florida. Mr. Strowd said direct rainfall in addition to inflows from contributing basins raised states in WCA-3A to near record highs. He said record stages have also been recorded in Everglades National Park. Mr. Strowd said water levels in the western sparrow habitat must recede significantly to insure a successful breeding season in 2000.

## **3. Legal Concerns**

Mr. John Fumero, General Counsel, said Office of Counsel was asked by Chairman Collins and Mr. Finch to review the plan and identify areas of concern. He said the plan is conceptual at this point, and additional detail must be included in the plan. He said until that detail is present in the plan, it is difficult to make a detailed analysis.

Mr. Fumero said areas of concern with the plan involve endangered species act issues. He said the plan could impact wood storks in adjacent areas, and other threatened or endangered species.

Mr. Fumero said there are also concerns about flooding impacts to private lands. He said the boundaries of a detention area proposed in the plan is unclear, but may include private and District leased lands. Mr. Fumero said the plan could also compromise the District's ability to provide flood protection to the West Kendall area.

Mr. Fumero said an urgent letter expressing concern about the sparrow has been received from a number of environmental groups with a request that it be made part of the public record. A copy is included in the official record of this meeting.

## **4. Summary of Actions since December 13, 1999 and Alternatives for Consideration.**

Mr. William Malone, Deputy Executive Director, Water Resources Management, presented information on alternatives and a tentative staff recommendation for proceeding on this matter.

Mr. Malone said staff believes the plan is flawed. He said operational changes requested by the USACE could cause adverse impacts and long term implications for Everglades restoration.

Mr. Malone said staff requested a four-day delay in implementing the plan to allow technical experts to look for better alternatives. He said the USACE responded that it would not agree to the delay.

Mr. Malone said staff has not implemented the operational changes requested by the USACE. He said staff is deferring a response pending the outcome of this meeting.

Mr. Malone presented four alternatives for the Board's review. A copy of the material used in his presentation is included in the official record of this meeting.

## **5. Corps Perspectives**

Colonel Joseph Miller, U.S. Army Corps of Engineers, commented on this issue. He said the Corps is required to act as rapidly as possible under the requirements of the Endangered Species Act.

Colonel Miller said options for meeting legal requirements under the Endangered Species Act are limited. He said the USACE attempted to minimize adverse impacts of the plan.

Colonel Miller said the Interim Structural and Operational Plan is the best chance for protecting the sparrow, and does not cause residents of the 8.5 Square Mile Area to be flooded. He said actions of the plan can be reversed if adverse impacts occur.

Mr. Dennis Duke, U.S. Army Corps of Engineers, said the USACE is responsible for meeting the conditions of the Biological Opinion. He said there is a need to implement these measures immediately.



## **Public Comment**

Ms. MaryAnn Poole, Florida Fish and Wildlife Conservation Commission, said her agency has not yet been briefed on the plan by the USACE. She said the commission is vitally concerned about the condition of the sparrow, but also about the viability of the Water Conservation Areas. Ms. Poole said the commission will work with any alternative selected today.

Ms. Joette Lorion, representing the Miccosukee Tribe of Indians of Florida, said the Tribe has serious concerns about this issue. She read into the record a letter from the Tribe expressing concern about the consequences of the plan on Tribal lands.

Ms. Barbara Mediema, Agricultural Advisory Committee, said the committee has serious concerns about the effect of the plan on South Dade Agriculture.

Mr. Don Chinquina, Executive Director, Tropical Audubon Society, said his organization supports a non-structural solution to this issue. He urged the District and the USACE to work together on the plan, and said the plan has legitimate issues that need to be addressed.

Ms. Erin Deady, Florida/National Audubon Society, said her organization supports the actions taken by the USACE and the plan. She said increased dialogue is needed to resolve issues of concern.

Mr. James Harvey, representing Florida Bay Initiative and Florida Bay Fishing Guides Association, said his clients agree with staff that the plan is flawed. He said all actions should focus more on Everglades restoration rather than single species management.

Mr. Dennis Duke, USACE, said the Corps is working on comments received from outside groups concerned about the plan. He said the USACE is working to address those concerns.

Mr. Berger expressed serious concerns about the plan. He said he will support the alternative which authorizes staff to refuse to cooperate with federal officials to implement the plan regarding the western habitat area; allows staff to present the keys to all relevant structures in the western area to the USACE and cooperate with the federal government in developing an optimum operational plan for eastern areas of the southern Everglades.

### **Motion by Mr. Berger to approve the above alternative.**

Mr. Fernandez proposed alternative language to the motion. Mr. Berger agreed to the language change.

### **Amended Motion by Mr. Berger to direct staff to:**

**Based upon the U.S. Army Corps of Engineers' representation to expedite the Supplemental Environmental Impact Statement (SEIS) process for the 8.5 Square Mile Area and to convey operational flexibility (e.g. suspension of Test 7 operating criteria) to the District for the South Dade Conveyance System, limit the District's implementation/execution of the Interim Structural and Operational Plan for Hydrologic Compliance with the Cape Sable Seaside Sparrow Biological Opinion for the year 2000 to the following:**

- (a) **Convey operations responsibility to the USACE for all relevant structures in western habitat area;**
- (b) **Cooperate with federal government, through technical support and advice, developing optimum operational plan for eastern areas of southern Everglades; and**
- (c) **Provide technical support and advice to accelerate completion of the SEIS.**

Mr. Minton expressed concern about the need for this action. He said the Board is still hurrying to make a decision on this issue, and has not been given a full opportunity to deliberate.

Chairman Collins said delaying a decision for a month could expose the District to liability for not taking timely action.

Mr. Minton said he is against the motion because the urgency is not there. He said such action could expose the District to litigation over single species management.

Chairman Collins suggested that Office of Counsel review this issue and report to the Board at a future time.

Mr. Berger said the District and USACE should stand together on these types of issues. He said the motion moves this issue forward.

**Motion approved. Aye - Chairman Collins, Ms. Carter, Mr. Thornton, Mr. Fernandez, Mr. Berger. Nay - Mr. Minton. Absent - Mr. Gleason, Mr. Gutierrez, Ms. Williams.**

## **ADJOURNMENT**

There being no further business to come before the Board, the emergency meeting was adjourned.

